



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## **Memorandum**

**Date:** March 18, 2015

**To:** Fran L'Heureux, Chair, & Members, Zoning Board of Adjustment

**From:** Donna F. Pohli, Assistant Planner

**Subject:** **429 DW Highway LLC. (petitioner/owner)** – Variances under Section 2.02.13.E(4)(b) and Section 2.02.13.E(4)(c) of the Zoning Ordinance to permit the construction of a three-car garage 2.3 ft. from the side property line whereas 15 ft. is required and 5 ft. from the rear property line whereas 40 ft. is required. The parcel is located at 427 Daniel Webster Highway in the C-2 (General Commercial) District and Elderly, Aquifer Conservation, and Town Center Overlay Districts. Tax Map 5D-4, Lot 076. Cases # 2015-09 and 2015-10.

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The following information is provided to aid in your consideration of the above referenced case. Additional background and application materials are included in your packet.

**Background:** The subject property is an approximately 0.35 acre lot located at 427 D.W. Highway. The property lies within the C-2 (General Commercial) District, and Elderly, Town Center and Aquifer Conservation Overlay Districts. The property is abutted by a multi-family residential building to the Northwest, Rivet's Funeral Home to the Southeast, and vacant land to the North/rear as well as across the street from the Prime Gas Station. The parcel is currently serviced by MVD water and municipal sewer. The applicant seeks a variance under Section 2.02.13(E)(4)(b) to allow a three car garage to be 2.3' from the side property line whereas 15' is required (Case 2015-09) as well as a variance under Section 2.02.13(E)(4)(c) to allow a building to be 5' from the rear property line whereas 40' is required (Case 2015-10) by the Zoning Ordinance in reference to dimensional requirements in the Town Center Overlay District.

**Standard of Review:** It is the burden of the Petitioner to demonstrate that the five requirements for the granting of these variances under Section 2.02.13(E)(4) of the Zoning Ordinance have been met to permit the construction of a three car garage within the setbacks. Two votes would be required from the Board since there are two case numbers.

**Staff recommends that should the Board vote to grant the variances that it be granted with the following condition:**

1. Petitioner to obtain Administrative Approval or Planning Board approval (whichever is deemed appropriate by staff) prior to building permits being issued.

cc: Correspondence & Zoning Board File  
ec: Mark Rivet/429 DW Highway LLC., Petitioner and Owner  
Chad Branon, Fieldstone Land Consultants, PLLC  
Carol Miner and Fred Kelley, Building Department  
Captain John Manuele, Merrimack Fire Department